



State of Wisconsin
Department of Health and Family Services

Jim Doyle, Governor
Kevin R. Hayden, Secretary

March 5, 2008

TO: Senate Committee on Public Health, Senior Issues, Long Term Care and Privacy
FROM: Katie Plona, DHFS legislative liaison
RE: Assembly Bills 611 and 616 and Senate Bill 548

Good morning. I'm Katie Plona, legislative liaison for the Department of Health and Family Services. Senator Carpenter and committee members, thank you for the opportunity to testify in favor of three pieces of remedial legislation that DHFS requested to the Legislative Council Special Committee on Law Revision.

Both of the Assembly Bills before you today have received unanimous approval in the Assembly. The Senate bill before you recently passed the Law Revision committee.

AB 611

AB 611 will correct an oversight in 2004 Act 33, which authorized the ICF-MR Restructuring Initiative. ICF-MRs are Independent Care Facilities for the Mentally Retarded.

In current law, there are two exceptions to these statutes regarding admission of individuals with development disabilities to ICF-MRs and nursing homes that do not require a court to find that the facility is the most integrated setting prior to admission. One is for emergency placement and the other is for respite care when a ward lives with the guardian.

2003 Act 33 neglected to include an exception for 30-day post-hospitalization rehabilitation stays in a nursing home under the nursing home fee for service requirements, which is an entitlement for all Medicaid eligible people.

AB 611 conforms the statutes to current DHFS policy and administrative practice.

AB 616

AB 616 creates a new section in statute to define and authorize the Program of All-Inclusive Care for the Elderly benefit as a Medicaid state plan service. PACE is a new Medicare/Medicaid managed care program that integrates all aspects of health and long-term care for the elderly and is available to eligible Wisconsin residents.

The federal Centers for Medicare and Medicaid Services has authorized states to provide PACE as a Medicaid State Plan service. Most Medicaid State Plan services are defined and authorized under Chapter 49 of the state statutes. The new PACE service is not.

The purpose of defining Medicaid services in statute and in rules is to provide the basis for decisions in legal challenges and appeals. Without a statutory definition for the PACE benefits, the Department may not have sufficient basis to defend the way the program has been implemented.

SB 548

Current language in Chapter 146.40 of the statutes contains outdated definitions and terminology related to nurse aides and nurse aide training and is no longer needed.

For example, SB 548 updates all references to "nurse's assistant" to "nurse aide" and it updates all references to "aides" in the complaint filing, investigation, decision-making, and hearing process language in Chapter 146.40 to "caregivers."

SB 548 also deletes "grandfathering" and "deeming" language in statute referring to provisions that must have been met by 1989 because they no longer apply. The draft also clarifies when an individual enrolled in a nurse aide instructional program or employed as a nurse aide with certain experience can be counted toward meeting or complying with any requirements for nursing care staff and facility functions.

Additionally, current Wisconsin statute does not recognize feeding assistants as it should. Federal regulations allow the use of feeding assistants in nursing homes, and SB 548 adds statutory language for the use of feeding assistants and adds the definitions of feeding assistants to state statute.

Thank you again for the opportunity to testify in favor of these three bills. I'm happy to answer any questions.